

Dzidek Kedzia
Chief, Research and Right to
Development Branch
Office of the High Commissioner for
Human Rights
United Nations, CH-1211 Geneva 10

8 Sept 04

Subject: The responsibilities of transnational corporations and related business enterprises with regard to human rights

Dear Dzidek Kedzia,

The impact of business on human rights can be immense - for good and ill - and there is a critical need for the development of overarching principles that provide a clear and comprehensive standard for business to follow. We think that the Draft UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights provide just such a framework. We would like to see a process that allows for their development and implementation with the support and credibility of the UN. Some of the reasons why we support the draft UN Norms include:

- **Duplication:** Currently, a number of initiatives, including the UN Global Compact, the OECD Guidelines for Multinational Companies, and the ILO Principles, all address human rights and are, in various ways, useful in furthering the agenda. But while some of them build on others (for instance the UN Global Compact supports the ILO Principles), there is a fair degree of duplication, as well as differences that potentially sow confusion.
- **Comprehensiveness:** No one standard is complete in itself, e.g. the ILO Principles focus on labour issues, the Kimberley process focuses on impacts of the diamond industry, the Equator Principles focus on the sustainability of project financing by banks. While all these are critical to the human rights agenda in their own right, they are generally specific to certain issues or industries and highlight the need for one common, comprehensive standard.

Clearly, the Draft UN Norms set out address the two points listed above. They bring together all the elements of different standards and codes and provide one standard that can be adhered to by companies in any sector and any part of the world. More importantly, compliance with these Norms would ensure compliance with all the other standards and codes – reducing the complexity of the issue for companies. They are also clear and easy to understand.

We would be very concerned if this very important piece of work were to be discarded and an entirely new process started. But it is clear that the Norms are controversial, at least in some quarters. We believe that a healthy open debate about the Norms is essential – both to ensure that all parties involved and impacted feel that they are robust and practical and to ensure that they are clearly defined, setting the appropriate boundaries for company responsibility.

Stakeholder consultation on the process and content is key. Especially important is the need to bring in the business perspective and ensure the support of key business actors. The companies that are part of the Business Leaders Initiative on Human Rights and are road-testing the Norms can provide critical feedback on the feasibility and impact of the Norms and should also be consulted. While there is scope for the Norms to be improved, we find it difficult to comprehend how companies and other stakeholders can reject outright these Norms without any constructive engagement and discussion.

By way of context, SustainAbility is a consulting firm and think tank that mainly works with companies internationally to develop strategies that address the key social, environmental and economic issues. One of the key considerations here is human rights – an area of focus for us.

We look at human rights from many perspectives – ranging from labour rights of employees to issues of access (e.g. access to clean water, to affordable energy, to affordable drugs, etc) to broader community concerns, such as the use of security forces. We work internationally, in developed as well as developing countries, with a broad spectrum of companies across different industry groups including Shell, Nike, Unilever, Microsoft, Starbucks, and Pfizer.

In our 17 years of experience in working with business, we have found that most of them struggle to understand the human rights agenda, not only what the issues are but how they potentially impact them – and where the boundary lies between their responsibilities and those of government. This agenda is not an easy one to understand and the plethora of codes, standards and principles that attempt to address the issue paradoxically make it more difficult for many business people to comprehend.

As a result, we conclude, there is a tremendous need for an overarching set of principles – that are comprehensive and complete, but also clear and simple. This is the reason why we endorse the Draft UN Norms.

We urge the OHCHR to strongly support the Draft UN Norms. With UN support and backing, these voluntary norms have the potential to create positive change and to provide clarity on what is expected of business – and what should remain within the remit of national and international governments.

I very much hope that the OHCHR will help pave the road for more oversight of corporate impact on human rights through the adoption of these Norms.

With best wishes,

A handwritten signature in black ink, appearing to be 'John Elkington', with a long horizontal line extending to the right.

John Elkington
Chairman
SustainAbility